

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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BURTON T. FRIED,

Plaintiff,

v.

LVI SERVICES, INC.; LVI PARENT CORP.,
CODE HENNESSY SIMMONS LLC d/b/a CHS
PRIVATE EQUITY V LP; APOLLO
INVESTMENT CORP.; SCOTT E. STATE, in his
official and individual capacities; BRIAN
SIMMONS, in his official and individual capacities;
RAJAY BAGARIA, in his official and individual
capacities; GERALD J. GIRARDI, in his official
and individual capacities,

Defendants.
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No. 10 Civ. 9308 (JSR)

**DECLARATION OF
SHAFFIN A. DATOO**

I, Shaffin A. Datto, pursuant to 28 U.S.C. §1746, declare and state as follows:

1. I am an attorney duly admitted to practice law in the Southern District of New York and associated with the law firm of Thompson Wigdor LLP, attorneys for Plaintiff Burton T. Fried in the above-captioned matter. I have personal knowledge of the facts set forth herein and submit this declaration in opposition to Defendants' motion for summary judgment.

2. A true and accurate copy of the Amended Complaint, dated February 13, 2011, is attached hereto as Exhibit 1.

3. A true and accurate copy of the Answer, dated April 19, 2011, is attached hereto as Exhibit 2.

4. A true and accurate copy of relevant portions of the deposition transcript of Rajay Bagaria, dated June 23, 2011 is attached hereto as Exhibit 3.

5. A true and accurate copy of relevant portions of the deposition transcript of Paul

Cutrone, dated June 1, 2011, is attached hereto as Exhibit 4.

6. A true and accurate copy of relevant portions of the deposition transcript of Gerald Girardi, dated May 23, 2011, is attached hereto as Exhibit 5.

7. A true and accurate copy of relevant portions of the deposition transcript of Greg DiCarlo, dated June 2, 2011, is attached hereto as Exhibit 6.

8. A true and accurate copy of relevant portions of the deposition transcript of John Leonard, dated June 3, 2011, is attached hereto as Exhibit 7.

9. A true and accurate copy of relevant portions of the deposition transcript of John Schnabel, dated June 1, 2011 is attached hereto as Exhibit 8.

10. A true and accurate copy of an email, dated November 5, 2010, from Scott State to David S. Hicks is attached hereto as Exhibit 9.

11. A true and accurate copy of relevant redacted portions of the Human Resources “The Bible” is attached hereto as Exhibit 10.

12. A true and accurate copy of relevant portions of the deposition transcript of Scott State, dated May 26, 2011, is attached hereto as Exhibit 11.

13. A true and accurate copy of relevant portions of the deposition transcript of Burton T. Fried, dated May 20, 2011, is attached hereto as Exhibit 12.

14. A true and accurate copy of an agreement between Burton T. Fried and LVI Services, Inc., dated November 16, 2005, is attached hereto as Exhibit 13.

15. A true and accurate copy of a document entitled, “LVI Services Names Robert A. McNamara as President and CEO,” dated July 13, 2006, is attached hereto as Exhibit 14.

16. A true and accurate copy of the Declaration of Burton T. Fried, dated June 20, 2011, is attached hereto as Exhibit 15.

17. A true and accurate copy of an email from Brian Simmons to Burt Fried, dated May 12, 2010 at 5:05pm, is attached hereto as Exhibit 16.

18. A true and accurate copy of a document entitled, "AIC Memorandum," dated June 11, 2010, is attached hereto as Exhibit 17.

19. A true and accurate copy of an email exchange between Scott State and Robert Hogan, dated September 14, 2010, is attached hereto as Exhibit 18.

20. A true and accurate copy of an email exchange between Scott State and Robert Hogan, dated September 19, 2010, is attached hereto as Exhibit 19.

21. A true and accurate copy of a document entitled, "LVI Services Names Scott E. State as President and CEO," dated September 27, 2010, is attached hereto as Exhibit 20.

22. A true and accurate copy of an email from Scott State to Brian Simmons, dated October 19, 2010, is attached hereto as Exhibit 21.

23. A true and accurate copy of a document entitled, "Minutes of a Meeting of the Boards of Directors of LVI Parent Corp.," is attached hereto as Exhibit 22.

24. A true and accurate copy of relevant portions of the deposition transcript of Jeffrey Smith, dated June 8, 2011, is attached hereto as Exhibit 23.

25. A true and accurate copy of the letter sent from Douglas H. Wigdor to Scott State, dated November 15, 2010, is attached hereto as Exhibit 24.

26. A true and accurate copy of Gerald Girardi's handwritten notes dated November 16 are attached hereto as Exhibit 25.

27. A true and accurate copy of an email from Brian Simmons to Burt Fried, dated November 16, 2010, with attachments, is attached hereto as Exhibit 26.

28. A true and accurate copy of Scott E. State's Objections and Answers to Plaintiff's

First Set of Interrogatories, dated March 24, 2011, is attached hereto as Exhibit 27.

29. A true and accurate copy of Brian Simmons' Objections and Answers to Plaintiff's First Set of Interrogatories, dated March 24, 2011, is attached hereto as Exhibit 28.

30. A true and accurate copy of Gerald Girardi's Revised Objections and Answers to Plaintiff's First Set of Interrogatories, dated March 24, 2011, is attached hereto as Exhibit 29.

31. A true and accurate copy of Rajay Bagaria's Revised Objections and Answers to Plaintiff's First Set of Interrogatories, dated March 24, 2011, is attached hereto as Exhibit 30.

32. A true and accurate copy of a letter from Burton T. Fried to the Board of Directors of LVI Parent Corp., et al., dated November 30, 2010, is attached hereto as Exhibit 31.

33. A true and accurate copy of an email from John Leonard to All Regional Managers, et al., dated December 21, 2010, is attached hereto as Exhibit 32.

34. A true and accurate copy of relevant portions of the deposition transcript of Brian Simmons, dated May 25, 2011, is attached hereto as Exhibit 33.

35. A true and accurate copy of an email from Scott State to Brian Simmons and Robert Hogan, dated October 14, 2010, is attached hereto as Exhibit 34.

36. A true and accurate copy of an email from John Leonard to All Regional Managers, et al., dated October 21, 2010, is attached hereto as Exhibit 35.

37. A true and accurate copy of an email from John Leonard to Scott State, with attachments, dated October 14, 2010, is attached hereto as Exhibit 36.

38. A true and accurate copy of an email from Burt Fried to Brian Simmons and Robert Hogan, dated September 22, 2010, is attached hereto as Exhibit 37.

39. A true and accurate copy of an email from Burt Fried to John Leonard and Paul Cutrone, dated September 23, 2010, is attached hereto as Exhibit 38.

40. I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 20, 2011
New York, New York

/s/ Shaffin A. Datoo
Shaffin A. Datoo